

A TAX CUT AND THE SOCIAL SECURITY TRUST FUNDS

The third item is an \$80 billion tax cut paid for with Social Security trust funds. Some say, "Well, that's not the way it's paid for." Show me the money. Where do you get the money? You get the money for a big tax cut by taking Social Security trust funds that are in a fund that is preceded by the word "trust." Taking those trust funds and saying these now represent the resources by which we can offer a tax cut is not the way to do this country's business.

When we have that debate—and I expect we will next week or the week after—it will be an aggressive debate because some of us are fiercely determined never to let that happen. I recall when we had the constitutional amendment to balance the budget on the floor of the Senate, I voted against it. In fact, it lost by one vote. Had some folks pretty upset with that vote. I said, "It's not that I don't want to balance the budget, I do." I helped play a role in balancing or nearly balancing this country's budget, not by writing something in the Constitution, but by doing the kinds of things you need to do on a day-to-day basis, to do things on taxing and spending that really does balance the budget. But to write into the Constitution a proviso that says, "Let's balance the budget by describing all revenue coming in as operating revenue" is to mistreat the Social Security trust funds once again. And to actually write it in the Constitution of the United States, that does not make any sense to me.

It does not make any sense to me in the final 2 weeks of a legislative session coming up to an election for anybody to say we are going to package up \$80 billion in tax cuts so we can say to the American people we are offering tax cuts, when in fact the money by which they offer these tax cuts is to take the money out of the Social Security trust funds and make them available for tax cuts.

Those moneys are not available. Those moneys were collected from paychecks in this country. The paychecks are a result of the work of the American people, and they are told "We're going to take some money from that paycheck to put into a trust fund because it is needed when you retire to make Social Security viable."

Then somebody comes along and says we are changing the words "trust fund"; we will just drop "trust." Maybe we should amend that to the extent they want to bring \$80 billion in tax cuts to the floor, paid for by Social Security trust funds. Perhaps we ought to require them to take the "trust" out of the trust fund name. That will, in my judgment, certainly abridge the trust that is supposed to exist with those trust funds.

Those are three big mistakes in a very short time. The potential, in a small amount of time, to make big mistakes is very substantial: H.R. 10, fast track, and tax cuts.

I have a lot of things I want to get done, others have a lot of things they want to do, and in most cases we work closely together and have good relationships, but on large public policy issues like this it seems to me we ought to be very careful. I feel very strongly about all three of these areas. All three, in my judgment, would be a mistake.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, here we are, Friday at 11 o'clock. Most Americans are out working the fifth day of the week, and the Senate is in a quorum call while we have important business to attend to. None is more important, I think, than the consideration of the Patients' Bill of Rights. I took time yesterday on the floor of the Senate when we had a long quorum call, asking why we weren't debating the Patients' Bill of Rights, as I did the day before. And here we are mid-morning on a Friday—a workday for most Americans—just going through the motions before recessing, with a cloture vote scheduled late Monday afternoon.

We could debate this issue all day today, could debate the issue all day on Monday, and we could have some resolution to the kinds of protections that we are talking about in the Patients' Bill of Rights. We have written these protections into legislation and we have described these protections on the floor. We have challenged our friends on the other side, the Republican leadership, to permit us an opportunity to debate and vote on the kind of protections that are outlined in the legislation introduced by Senator DASCHLE.

However, we have been denied the opportunity to bring up this legislation, and to debate these various protections. Instead, we have continued in the Senate to move forward on other pieces of legislation which, as important as they are, don't measure up to what I think most families are concerned with—and that is ensuring the protection of the health of themselves, their children, and their parents.

Endorsements of various groups and individuals are important in some instances, less so in other instances. But I daresay that in this particular instance virtually all of the leaders in the health debate—certainly the doctors, nurses, and patient coalitions—have endorsed our proposal. We have been asking the Republican leadership for the names of the organizations that endorse their program. And we are still

waiting to hear from the other side which medical professional groups have endorsed or supported the Republicans in this debate. I do not think there are any leading groups that support their plan, while virtually all support our legislation. Still, we are denied the opportunity to debate these issues.

Now, yesterday Senator GRAMM took the floor for an extended period of time to attack our plan. He said that the Republican solution was a new kind of insurance policy called medical savings accounts. The fact is that our bill takes medical decisionmaking out of the hands of the insurance company accountants and puts it back where it belongs, with the patients and the doctors. The Republican program is a sham and it gives the appearance of reform without the reality.

I was struck by the fact that my friend, Senator GRAMM, accuses the American people of wanting something for nothing, of wanting a "free lunch." I object to this characterization of the patients who want protections from the health insurance company abuses. That is what we are basically talking about. What is at the heart of the legislation that we support is ensuring that medical professionals—doctors, nurses, and the trained medical professionals—make medical decisions. Those who are opposed want to maintain the status quo. They want to permit, in too many instances, insurance company accountants to make medical decisions.

Now, a number of HMOs work well. Managed care in its best form can be good for patients. There are even a number of HMOs that support our particular proposal. And portions of our legislation are drawn from standards adopted voluntarily by some plans. But the problem is the bad apples that reach their medical decisions not on the basis of what is necessary from a medical point of view, but what is necessary from a bottom line point of view or the profit point of view of the HMO. That is the fundamental, basic issue. That is it.

The good HMOs are complying with the kinds of protections that we have here. But a great many of other HMOs are not. We want to make sure that the patients are going to get what they pay for and what they are entitled to, and that their medical decisions are made by medical personnel and not accountants for insurance companies.

Now, that fact is not understood by the Senator from Texas. What he has basically done in his presentation yesterday is accuse the American people of wanting something for nothing—I use his words: "a free lunch." Those are the words the Senator used. Mr. President, I object to the characterization of patients who want protection from health insurance company abuse as patients who want a free lunch.

I don't think a cancer patient who needs access to a specialist or a cancer treatment center wants a free lunch. I don't think that a family with a child experiencing seizures is asking for a

free lunch when they want to rush their child to the nearest emergency room, and their HMO, in an emergency, requires instead that they go all the way across town to another emergency room. That type of response can risk the life and the health of that particular child. I don't think those parents who are saying, "Why can't I take my child to the nearest emergency room?" are asking for a free lunch. I don't think a woman whose doctors say she needs to stay in the hospital after a mastectomy, even though her insurance company wants to send her home in pain, with tubes still dangling from her body, is asking for a free lunch.

All of these examples I am using are examples we have presented to the U.S. Senate day in and day out over the period of the past many months. All of those particular situations are addressed in our Patients' Bill of Rights.

I would have hoped that the Senator from Texas at least would have urged the Republican leadership to permit us to debate this and let the Senate resolve these particular issues. That is where we would have the opportunity to make our respective presentations and call the roll on these matters, as to whether these requests amount to "free lunches." Let him make his presentation, and those of us who are strong supporters of the Patients' Bill of Rights can respond and make a presentation to the Senate. Then let the Senate make a decision as to whether those individuals are trying to have a free lunch.

I don't think a doctor who is penalized for telling patients about the best available treatment is asking for a free lunch. In too many HMOs, when doctors make that kind of judgment and tell that patient they ought to have a treatment that is not on the plan's list, is that they are effectively fired, or they are not rehired at the end of the year. The insurance companies and Republicans can say this isn't a gag rule. But the fact that they are not hired back when they are dismissed is effectively a gag rule. That is what is happening in too many circumstances. I don't think that the patient who is getting the best advice from that doctor, at the risk of that doctor's employment, is asking for a free lunch.

I don't think an individual suffering from terrible mental illness, like schizophrenia or clinical depression, who wants effective pharmaceutical products to treat the illness rather than the older, ineffective, but cheaper medication that happened to be on the plan listing, is asking for a free lunch. That is happening in America today and will continue today and tomorrow, and it will continue day after day in the future unless we address that issue here.

This isn't just my opinion or the opinion of our cosponsors. We have the strong support of the leaders of the medical organizations, doctors, psychiatrists, psychologists, social workers, nurses, and others who know firsthand

that the various HMOs are doing these things. We have heard from countless patients who have been told, "You can't get the good kind of medications that are necessary to meet your particular health care needs until you use these other ones and demonstrate to us, not just once, but twice, that they just don't work." This puts a patient's health at risk. That is happening today. Look right here on the chart, Mr. President—"access to the doctor prescribed drugs." But the Senator from Texas says, well, that particular patient is just looking for a free lunch. These Americans don't want something for nothing, and it is insulting of the Senator from Texas to suggest that they do. They have faithfully paid their premiums and they deserve quality care.

These companies don't mind going out and representing that they have a whole range of different quality programs to get individuals into their HMO. But, too often, insurance companies then deny the individuals the kind of health quality protections they need when they get ill. That is what is happening.

That is where there is bureaucracy; the bureaucracy is in that HMO that refuses to give the best in terms of health care to the patient. All we are requiring is that they just give the patient what they paid for, what HMO represented in terms of quality health care. They are not doing it. They are not doing it in the ways listed on this chart, Mr. President.

These are not just made up categories of care; these have been recommended by the President's non-partisan commission, and by Congress for the Medicare program. These are recommendations that have come from State insurance commissioners. These are recommendations that have been made by the health plans themselves. They are the ones who made these recommendations. We didn't just pull this out of the blue.

These are protections that those who know the condition of what is happening in America have recommended to us. That is what this debate ought to be about.

Mr. President, the American consumer has faithfully paid for their premiums. They deserve quality care. The characterization of it by the Senator from Texas is typical of the attitude that the Republican leadership has taken toward this issue. They want to allow insurance companies to continue to put the profits first and patients last—all driven by the bottom line.

You can solve these issues and problems by having the decisions affecting the quality made by the doctors. There is not a great mystery about what the solution is.

But no. We do not hear that from the opponents. They want to allow the insurance companies to continue to put the profits first. That is why they have offered a sham bill. That is why they won't allow the Senate to have a

chance to debate and vote on this issue. That is why they are trying to change the subject to medical savings accounts. They don't want to debate this issue. They refuse to debate this issue. They want to debate another issue and divert attention away from the real issues in this discussion.

They do not want to talk about clinical trials and their importance for women with breast cancer. They do not want to talk about the ability to have the pediatric specialist for children with dread diseases. They don't want to debate those issues. They don't want to debate the question about giving the family the right to be able to go to the nearest emergency room rather than across town. They don't want to debate that issue. Which of these do they not want to debate? We challenge the Republican leadership to tell us.

But day after day we go on with the charade of trying to get cloture to prohibit any kind of amendments and any kind of debate on these issues—day after day, issue after issue. That is wrong. It is absolutely categorically wrong.

We are committed to trying to have this kind of debate and discussion on, as Senator DASCHLE has said on many occasions, a reasonable way to proceed. But, quite frankly, we see day in and day out the Republican leadership attempting to do to the U.S. Senate what many of these HMOs are doing to their patients—gagging their doctors so they can't give them the right kind of health advice. The Republican leadership is gagging the Senate by saying: We will only permit you to bring this up if we have one vote—one vote—and do it now with no debate.

Why aren't we debating this on Friday at 11 o'clock this morning, or this afternoon, or on Monday when millions of Americans are going back to work? Why aren't we debating these issues? Why aren't we, Mr. President? It is silence on the other side. It is silence on the other side. They are trying to gag us from debating these issues. They are trying to protect the profits of those HMOs that refuse to provide the right kind of treatment by refusing us the opportunity to address these issues. They are basically protecting those various special interests and denying to virtually every major consumer group, and every major medical professional group their voice here in the Senate on these points. They refuse to let us even debate these issues. And the American people understand it.

The American people want Congress to pass strong and effective legislation to end the abuses of HMOs, managed care plans, and health insurance companies. They want us to pass the Patients' Bill of Rights, which was introduced by Senator DASCHLE and Senate Democrats, to provide the needed and long overdue antidote to these festering and growing abuses.

Our goal is to protect the patients and to see that insurance plans provide the quality plan they promise but, too

often, fail to deliver. Our bill has been on the Senate calendar since March. An earlier version of the legislation was introduced more than a year and a half ago, but the Senate has taken no action because the Republican leadership has been compounding the HMO abuses by abusing the rules of the Senate to block meaningful reform. This record of abuse should be unacceptable to the Senate. It is certainly unacceptable to the American people.

We held a forum Wednesday in which a letter was released from 36 groups representing patients, families, psychiatrists, psychologists, social workers, and others concerned about quality health care for people with mental illness. As I discussed in a floor statement yesterday, these groups begged the Senate to act to pass a patients' bill of rights, because with every day that passes, patients and their families suffer needlessly because of abuses by managed care plans.

The stories they told were tragic—they involved suicide, spousal abuse, anxiety attacks inflicted on a Vietnam veteran, successful courses of treatment cruelly interrupted—all because insurance companies are putting the bottom line first and their obligations to patients last.

This forum was just the most recent one in which we have heard patients and doctors and nurses pleading with the Republican leadership to act on real managed care reform. In my statement yesterday, I reported on an earlier forum in which we heard from Dr. Charlotte Yeh, an emergency room doctor representing the American College of Emergency Physicians. Dr. Yeh described tragic cases in which patients had been denied the care they needed because of managed care penny-pinching.

On behalf of the college, she endorsed our legislation, and she denounced the Republican leadership alternative as worse than inadequate. Only with a full and fair floor debate can we pass real protection for patients who need emergency care or who should be allowed to go to the nearest emergency room when the symptoms of serious illness strike.

On July 24, we heard from cancer patients and their doctors who explained how critical the provision of the Patients' Bill of Rights was in assuring patients access to quality clinical trials. These trial are often the only hope for patients with incurable cancer or other diseases where conventional treatments are ineffective. They are the best hope for learning to cure these dread diseases. Insurance used to routinely pay the doctor and hospital costs associated with clinical trials—but managed care plans are refusing to allow their patients to participate or to pay these costs.

We understand. When patients are in a clinical trial there isn't a significant increase in terms of the costs to the HMO. It is just the routine doctor costs and hospital costs that they would pay

anyway. The trial itself pays for the kinds of additional attention and prescription drugs that are given to these patients. But the insurance companies won't even cover the minimal payments.

Our bill requires them to respond to this need—but the Republican bill does not, and the Senate leadership does not want a debate on this issue.

Fourteen leading organizations of cancer patients, representing the eight million Americans surviving with cancer and the 1.5 million Americans who will be newly diagnosed with cancer this year, have spoken out strongly on the need for this amendment. These are organizations that patients and physicians alike look to for guidance on cancer issues. They include the National Coalition for Cancer Survivorship, Cancer Care, Incorporated, the Candlelighters Childhood Cancer Foundation, the Susan G. Komen Breast Cancer Foundation, the National Alliance of Breast Cancer Organizations, the North American Brain Tumor Coalition, US TOO International, the Y-ME National Breast Cancer Society, the American Society of Clinical Oncology, the Alliance for Lung Cancer Advocacy, Support and Education, the Friends of Cancer Research, the Leukemia Society of America, and the Oncology Nursing Society—all groups that speak out for patients who have cancer. They have made their recommendations. They support our legislation. But we are being refused and denied the opportunity to even debate it.

Here is what the combined cancer groups say about this:

Clinical trials represent the standard of care for cancer patients. Patient care in clinical trials is no more important than standard therapy. Cancer will strike roughly one in three Americans during their lifetimes. Even those who escape the diagnosis will have friends and family touched by the disease. Any patient rights or quality care legislation will be a shallow promise for people with cancer if it does not include provisions ensuring access to clinical trials.

That is what we are talking about—clinical trials for individuals who have cancer. Why can't we debate that on the floor of the U.S. Senate on a Friday at noontime? Why can't we call the roll for those who believe, as the cancer organizations do, that clinical trials are a critical aspect of treatment, and that most Americans believe when they sign those HMO contracts that they are going to get the best in terms of American health care? And they do with a better HMO. But there are too many that are denying that care. Too many that are risking their lives because they are being denied the opportunity for clinical trials that may offer new hope and opportunity of survival for an individual member of a family. That is unbelievable. But that is happening—denial. Too often the insurance companies offer a shallow promise. But our program ensures these protections. The Republican plan does not.

Mr. President, we see that not one, not a single group that is concerned

about the survival of cancer has supported the Republican program. But virtually every major cancer group supports our legislation and believes it is essential to protect American families.

Why can't we debate that on the floor of the U.S. Senate? What is it about? Hard-working Americans—more than 160 million working Americans who are going to work today on Friday at noontime.

Why aren't we debating that in the Senate? Why aren't we debating it at 2 o'clock or 5 o'clock or on this coming Monday morning or afternoon? We are prepared to debate these issues. But, no, the Republican leadership refuses to debate them. We are effectively seeing the manipulation of the Senate rules in such a way as to deny the opportunity for full consideration of something that is of core concern and importance to every American family, and that is the quality of their health care.

So, Mr. President, I just want to again reiterate my strong support for our Democratic leader, Senator DASCHLE, who has indicated that we are going to still, even in the final days of this session, continue to pursue this. There are those who say, well, we haven't got enough time. But our Republican friends must think we do have enough time because they are continuing to resist our efforts. They must assume we do have enough time. It is amazing how quickly this body can act when we want to act on important pieces of legislation, and we do have time. So, Mr. President, we will continue to press these issues forward.

I see other of my friends and colleagues in this Chamber. I will continue to address this issue at another time, but it is important to note that we have seen one more week go by and a denial of the request of our Democratic leader to at least have a reasonable period of time to debate these issues and resolve them in a way that would respond to the central concerns of every major medical professional group and society in our country. I am not aware of a single medical society or patient group that supports the Republican plan—not one. We have been waiting to hear one. They can't come up with one. In contrast, more than 180 groups support our particular proposal.

Now, we may not have it all right, and we are interested in discussing adjustments that we may have to make. But 187 groups in our country, representing the cancer societies, the medical professionals, the nurses, the patient groups, working families, and others effectively support our proposal.

Every major children's health organization in our society has endorsed this proposal because they know how important this is for children. Every major breast cancer group in our society that cares about women and understands the enormous possibilities of breakthroughs in terms of the new

modern miracle drugs supports our proposal. Every major group that represents persons with disabilities in our country—individuals who are challenged mentally and physically every single day—supports our proposal. And still, because of the manipulation of the Senate rules, we are denied a full debate and discussion and ultimate resolution as to what this body would say to families of this country on such a matter. It is wrong, and we are going to continue to press our case.

I yield the floor.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. BYRD. Mr. President, the distinguished Senator from Massachusetts can always be counted upon to stand up for the things in which he believes. He is constantly supporting legislation that is calculated and dedicated to bring better health care to the American people. I support his Patients' Bill of Rights. "Constancy, thou art the jewel." He is always constant in this efforts.

I have been hearing some ads on the radio, and these ads are talking about the "Kennedy Bill of Rights." I don't recall their ever telling us what is wrong with it. They may have been doing it; I have missed that. But I continually see these ads on the television: "Write your Congressman, write your Senator, write your representative, and urge them to defeat the Kennedy Bill of Rights, the health care bill of rights."

Tell me, has the Senator seen those ads, and what are we talking about?

Mr. KENNEDY. Mr. President, it is very interesting. I have seen those ads, but I believe they are going to be pulled very soon because what has happened, according to the most recent study by Bob Blendon at Harvard and the Kaiser Family Foundation, is that support for our bill has gone up, quite in conflict with the intentions of those who sponsored the ads that have been critical of the Patients' Bill of Rights. And so now the insurance companies and corporations that oppose the Patients' Bill of Rights are reviewing their television strategy because their campaign has had the reverse effect. They are sort of going back to the drawing board.

But quite clearly, as the Senator implies, their ads certainly were not a fair representation of the legislation that we have introduced. As I mentioned, virtually every one of these proposals in our bill has either been suggested by the President's commission—which was bipartisan and reported its recommendations unanimously—as important for all patients, or included in Medicare at the present time and used in protecting our seniors, or have been embraced by the state insurance commissioners—which are the 50 commissioners around this country, Republicans and Democrats—or adopted voluntarily by the HMOs themselves through their trade association.

This legislation reflects the best judgment of those groups that know this issue best. That is why we have a sense of confidence in this legislation. It has the strong support of those professionals who treat families and understand the kinds of protections that are necessary to give the best of health care to American families.

Mr. BYRD. Mr. President, I thank the Senator for enlightening this Senator in response to the question I asked. I again commend him for his unceasing effort in behalf of this legislation, the Patients' Bill of Rights.

Mr. KENNEDY. I thank the Senator.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, on behalf of the leadership, I ask unanimous consent that there be a period for the transaction of morning business until 12:30 with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION CORRECTION—S. 442

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I ask unanimous consent that the name of Senator BURNS be added to the cloture motion in place of the Senator from Wyoming, Mr. ENZI, whose name was inadvertently added to the motion in error.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CANCER AWARENESS

Mr. MURKOWSKI. Mr. President, I rise to address two matters that are of importance to me. The first is the issue of national cancer awareness.

Mr. President, for the next 3 days, hundreds of thousands of cancer survivors, families, care givers, and friends, whose lives have been affected by cancer will join together in this city for an event called "The March: Coming Together to Conquer Cancer."

Yesterday, other Members of this body and I had an opportunity to place a large star on our respective States to represent special persons in our lives who have been touched by cancer.

I had the pleasure and honor on behalf of my wife, Nancy, to place a star on my State of Alaska for the late Judge Lester Gore, my wife's father. He was a remarkable pioneer in our State. In 1912, Judge Gore moved to Juneau after graduating from law school and established an impressive record as a young deputy district attorney. He was recognized in that effort in 1932 by President Hoover's appointment to serve as a Federal judge for the Territory of Alaska, serving the first judicial district in Nome.

In serving as a Federal judge in the far reaches of western Alaska in the aftermath of the gold rush, Judge Gore traveled from village to village hearing

various cases and judging on the merits. He used every mode of transportation from dog team to the former cutter *Bear*, bringing justice to rural Alaska. He was instrumental in both creating legal precedent and shaping the legal history of our State. Later in his career he worked as an attorney in Ketchikan, and died in 1965 of cancer. He had many accomplishments but none more important to me than fathering a daughter, Nancy, who later was good enough to accept my proposal of marriage.

In addition, I was pleased in my own personal case to recognize my mother, who died of cancer, leukemia, in Alaska in 1956, having spent her entire career in the area of education. She was the longest standing sixth grade teacher in Ketchikan, Alaska.

To move on, for more than 20 years now, my wife, Nancy, has worked with Alaskan women to encourage the establishment of a breast cancer center starting in Fairbanks, Alaska. She and a group of women initiated the Breast Cancer Detection Center for the purpose of offering free mammograms to women in the remote areas of Alaska, regardless of their ability to pay. I am proud to say that the center now serves about 2,500 women a year and provided screenings to more than 25,000 Alaska women in 81 villages throughout the State.

To help fund these efforts of the Fairbanks center, each year my wife has sponsored a fishing tournament to raise money for the operation of the facility and to purchase units. Interestingly enough, over the last 5 years they have raised over \$1 million in this effort. They now operate a permanent facility in Fairbanks, as well as a mobile mammogram unit that travels the highways of Alaska providing free breast cancer examinations for the women along the highway system. It looks like a big armored car. More recently, they have purchased a smaller unit called Molly. Molly is designed to go in aircraft to fly out to the villages that are not connected by any road, and by river barge down the rivers of the interior.

So I commend those who are responsible for this effort in my State, a group of women who have taken it upon themselves to do something about this disease, this killer disease which affects all of us. It is anticipated that 40 percent of us will get some form of cancer during our lifetimes. We have had a figure of about 1.5 million Americans being diagnosed this year.

Mr. President, I ask my colleagues to join with me in taking part in the activities here in Washington, D.C., with The march, thereby demonstrating our commitment to end cancer forever.

NORTH KOREA MISSILE TEST

Mr. MURKOWSKI. Mr. President, I would like to address one more issue, with the agreement of my colleagues. I see a number of them on the floor—